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10/632,620

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Christopher Norman Kline

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CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE, FL 33301

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER NORMAN KLINE

Appeal 2009-005248
Application 10/632,620
Technology Center 2100

Decided: May 24, 2010

Before ST. JOHN COURTENAY III, CAROLYN D. THOMAS, and
STEPHEN C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 21-31. Claims 1-20 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

The Invention

The disclosed invention relates generally to scheduling and execution of jobs in a computer system (Spec. 1).

Independent claim 21 is illustrative:

21. A computer implemented method for managing a change to a setting of a computer program of a computer system, said method comprising the steps of:

- automatically attempting to change a setting of a computer program, and
- if said setting of said computer program is successfully changed, said computer program writing a predetermined return code to a log file,
- if said setting of said computer program is not successfully changed, said computer program not writing said return code to said log file, and
- in response to the step of automatically attempting to change said setting of said computer program, automatically searching said log file for said return code, and
- if said log file contains said return code, automatically sending a notification that said setting of said computer program was successfully changed, and
- if said log file does not contain said return code, automatically sending a notification that said setting of said computer program was not successfully changed.

The References

The Examiner relies upon the following references as evidence in support of the rejections:

Boukobza	US 6,122,664	Sep. 19, 2000
Wilson	US 2002/0166053 A1	Nov. 07, 2002
		(filed May 02, 2001)

Morrison

US 7,089,561 B2

Aug. 08, 2006
(filed Jun. 01, 2001)

Nathan J. Muller, *Focus On Open View, A Guide to Hewlett-Packard's Network and Systems Management Platform* (CBM Books, 1995) ("Open View").

Admitted Prior Art, Specification, Background of the Invention, page 1 (“APA”).

The Rejections

1. The Examiner rejects claims 21, 23-25, 27, and 28 under 35 U.S.C. § 103(a) as being unpatentable over APA, Morrison, and Open View.
2. The Examiner rejects claims 22 and 26 under 35 U.S.C. § 103(a) as being unpatentable over APA, Morrison, Open View, and Boukobza.
3. The Examiner rejects claims 29-31 under 35 U.S.C. § 103(a) as being unpatentable over APA, Morrison, Open View, and Wilson.

Grouping of Claims

Based on Appellant's arguments in the Appeal Brief, we will decide the appeal on the basis of claim 21 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE 1

Appellant asserts that “the cited APA, Morrison, and/or OpenView references . . . fail to disclose ‘automatically attempting to change a setting of a computer program, and . . . *in response* to the step of automatically

attempting to change said setting of said computer program, *automatically searching* said log file” (App. Br. 7).

Did the Examiner err in finding that the combination of APA, Morrison, and Open View discloses or suggests automatically attempting to change a setting of a computer program and automatically searching a log file for a return code in response to the automatic attempt to change the setting of the computer program?

ISSUE 2

Appellant asserts that Morrison fails to disclose or suggest “*changing* a setting of a computer program” or “any return value associated with a change in a setting of a computer program” (App. Br. 8).

Did the Examiner err in finding that the combination of APA, Morrison, and Open View discloses or suggests changing a setting of a computer program and a value or code associated with the change?

FINDINGS OF FACT

The following Findings of Facts (FF) are shown by a preponderance of the evidence.

1. APA discloses that “[s]ystems administrators are often required to make configuration and other changes to computer system” (Spec. 1).

2. APA discloses that “the systems administrator has entered commands or initiated a script which identified an application instance which is the target of the change, and issued change commands via an application interface” (Spec. 1).
3. APA discloses that the “systems administrator then made a change to the application instance, either manually or via a prepared script” (Spec. 1).
4. APA discloses that the systems administrator “verified that the change was made successfully by manually checking the output of the change and searching for certain codes and phrases in output either displayed on the screen or stored in temporary logs” (Spec. 1).
5. APA discloses that the systems administrator “has entered commands or initiated a script which issued operating system commands” and “verified that the change was made successfully by reviewing the output of those commands, as well as the exit status of each command” (Spec. 1).

PRINCIPLES OF LAW

Obviousness

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and

(3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

ANALYSIS

Issue 1

APA discloses an administrator changing an application via a prepared script (FF 1-5). Since execution of a script causes the application to change and since the script causes the change automatically (i.e., without further manual input), we agree with the Examiner that the application is modified automatically by the script. As such, we find that APA discloses automatically attempting to change a setting of a computer program (via execution of a script).

In addition, APA discloses that “certain codes” are “stored in temporary logs” (FF 1-5) and that these codes may be displayed on a screen. We agree with the Examiner that the system automatically searches for the codes in the log because the system disclosed in APA displays the codes, which would have been first identified in and output from the temporary log (since the codes would not have been displayed without first being identified for display). Since the codes are available for display if they are generated (and therefore exist) and they are generated if the script automatically

modifies the application, we find that it would at least have been obvious to one of ordinary skill in the art to display the codes following execution of the script to modify the application. As such, the system automatically searches a file for the codes “in response to” modifying the application.

Even assuming *arguendo* Appellant’s contention that APA fails to disclose or suggest “automatically” attempting to change a program setting and/or in response, “automatically” searching a log file for a code in a log, we further note that broadly providing an automatic way to replace a manual activity, which accomplishes the same result, is not sufficient to distinguish over the prior art. *In re Venner*, 262 F.2d 91, 95 (CCPA 1958); *Leapfrog Ent., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007) (“Applying modern electronics to older mechanical devices has been commonplace in recent years.”).

Independent claims 21, 25, and 29 recite similar features of automatically attempting to change a program or file and automatically searching or querying for a code. For at least the aforementioned reasons, we affirm the Examiner’s rejection of claim 21, and of claims 22-31, which fall therewith, with respect to issue 1.

Issue 2

As discussed above, we find that APA discloses changing (or attempting to change) a setting of a program (FF 1-3) and a log that contains a code indicating the program change (i.e., writing a code into a file if the

program is changed) (FF 4). In view of these explicit teachings, we disagree with the Appellant that the combination of APA, Morrison, and Open View fails to disclose or suggest these features.

Independent claims 21, 25, and 29 recite similar features of changing a program or file and a log containing a code indicating the change. For at least the aforementioned reasons, we affirm the Examiner's rejection of claim 21, and of claims 22-31, which fall therewith, with respect to issue 2.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err in:

1. finding that the combination of APA, Morrison, and Open View discloses or suggests automatically attempting to change a setting of a computer program and automatically searching a log file for a return code in response to the automatic attempt to change the setting of the computer program (issue 1) and
2. finding that the combination of APA, Morrison, and Open View discloses or suggests changing a setting of a computer program and a value or code associated with the change (issue 2).

DECISION

We affirm the Examiner's decision rejecting claims 21-31 under 35 U.S.C. § 103.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

msc

CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE, FL 33301